

**REMARKS/ARGUMENTS**

This case has been carefully reviewed and analyzed in view of the Office Action dated 19 April 2007. Responsive to that Office Action, Claims 1 and 2 have been amended and a new dependent Claim 23 has been added for prosecution with the other pending Claims. It is believed that with such amendment of Claims, there is further clarification of their recitations.

In the Office Action, the Examiner objected to the Title of the invention stating that it was not descriptive. The Examiner required a new Title that is more clearly indicative of the invention to which the Claims are directed. Accordingly, the Title has been amended herein to recite a method and system for automatically creating tests, per the Examiner's suggestion. It is now believed that the new Title is clearly indicative of the invention to which the Claims are directed.

Also, in the Office Action, the Examiner rejected Claims 1-22 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. It is believed that the clarifying amendments incorporated into the Claims now obviate the Examiner's concerns under 35 U.S.C. § 101.

The Examiner then rejected Claims 1-22 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. As discussed supra, with the aforementioned amendments to the Claims it is believed that this rejection is also obviated.

Lastly, the Examiner rejected Claims 1-22 under 35 U.S.C. § 102(e) as being anticipated by Solloway, et al., U.S. Patent 6,708,324, hereinafter referred to as Solloway.

As the newly amended independent Claim 1 now more clearly recites, the claimed method and system include among their combinations of features selecting at least one of said plurality of scenarios according to said at least one constraint by resolving conflicts among the constraints of the scenarios and automatically generating the test from at least one of the selected scenarios.

The full combination of these and other features now more clearly recited by the pending Claims is nowhere disclosed by the cited Solloway reference. The reference in fact incorporates the very type of manually coded testing approach which the claimed method and system serve to dramatically improve upon. Solloway's focus is the automated running, task scheduling and distribution of test tasks, but not automatic generation. Solloway in fact contemplates "individual testers [manually] creating test scripts for testing a specific product or portion of a protocol." (Solloway column 2, lines 58-60). Solloway discloses the users manually creating their own test scripts with Tool Command Language (TCL), noting quite plainly that "TCL is a common scripting language that is currently used when writing individualized test scripts," stating further that "new scripts may be written as well." (Column 3, lines 1-5) Thus, Solloway's disclosure of user written scripts necessarily precludes the automatic generation of tests. In fact,

nowhere in the Solloway reference does the automatic generation of tests appear – as the reference explicitly prescribes instead manual creation, albeit for automatic execution.

Solloway's test execution process – automated though it may be – thus has little if anything to do with the actual generation of tests themselves. Indeed, Solloway contemplates "the user defining a test execution scenario, by creating scripts." (column 4, line 21 emphasis added) Solloway makes no mention of a plurality of scenarios, no mention of constraints contained within the scenarios, and further, no mention of constraints relating to a relationship with other scenarios. Further, Solloway does not disclose any process for resolving conflicts among the constraints of the scenarios to include only non-conflicting scenarios. Far from disclosing the automatic generation of tests as newly-amended independent Claim 1 now more clearly recites, Solloway prescribes quite to the contrary.

It is respectfully submitted, therefore, that the cited Solloway reference fails to disclose the unique concatenation of interrelated elements now more clearly recited by the pending Claims for the purposes and objectives disclosed in the subject Patent Application. The other references cited by the Examiner but not used in the rejection are believed to be further remote from the claimed method and system when patentability considerations are taken properly into account.

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Reply to Office Action dated 19 April 2007

It is now believed that the subject Patent Application has been placed fully in condition for allowance, and such action is respectfully requested.

If there are any further charges associated with this filing, the Honorable Commissioner for Patents is hereby authorized to charge Deposit Account #18-2011 for such charges.

Respectfully submitted,  
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